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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,175	02/01/2000	Ana Belen Benitez	2000-0025	4490

7590 01/24/2005

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliance With 37 CFR 1.192(c)	Application No. 09/495,175	Applicant(s) BENITEZ ET AL.	
	Examiner Prieto Beatriz	Art Unit 2142	

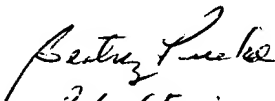
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 24 September 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a ~~correct~~ statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

(see attached)


 Patent Examiner

DEFECTIVE APPEAL BRIEF (SUPPLEMENTAL)

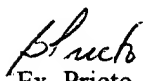
1. Appeal brief filed 09/24/04 has been considered and found defective for the following reason(s): appeal brief is based on non-entered amendment to the claims.

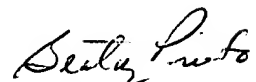
2. Appellant has amended claim (25) filed with the appeal indicating that this is a "minor amendment governed by C.F.R. section 1.116, to clarify features of the claimed invention and which places amendment in better condition form for consideration on appeal" (see status of amendments section on page 2 of brief).

3. In accordance with MPEP 1207 Amendment Filed With or After Appeal: to expedite the resolution of cases under final rejection, an amendment filed at any time after final rejection, but before jurisdiction has passed to the Board (see MPEP § 1210), *may be entered upon or after filing of an appeal brief provided that the amendment conforms to the requirements of 37 CFR 1.116*. For example, if the amendment necessitates a new search, raises the issue of new matter, presents additional claims without cancelling a corresponding number of finally rejected claims, or otherwise introduces new issues, it will not be entered. Entry of a new amendment, new affidavit, or other new evidence in an application on appeal is not a matter of right.

Examiner did not indicate (in the advisory action 08/05/04) that a proposed amendment of the claim(s) would be entered for purposes of appeal. Except where an amendment merely cancels claims and/or adopts examiner suggestions, removes issues from appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116 will be expected of all amendments after final rejection.

4. Arguments, for example on page 4, 1st paragraph are based on the claim limitation as amended. Status of Amendments on appeal is incorrect, amendment filed with brief has not and will not be entered.


Ex. Prieto
Patent Examiner


Patent Examiner